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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,028	05/16/2001	Max Kossldorfer	12758-033001	2264
26161	7590	09/28/2004	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			KADING, JOSHUA A	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/856,028	Applicant(s) KOSSLDORFER, MAX	
	Examiner Joshua Kading	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-12 is/are rejected.
- 7) ☒ Claim(s) 5 and 9-12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/01, 10/01</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claims 5, and 9-12 are objected to because of the following informalities:

5 Claim 5, line 13; and claim 12, line 13 state "the operational state". There is no antecedent basis for this. Therefore, it is suggested line 13 of each claim be changed to --an operational state--.

Claim 9, line 2 states "the primary protection path". There is no antecedent basis for this. Therefore, it is suggested line 2 be changed to --a primary protection path--.

10 Claim 10, line 3 states "the communication channel". This should be plural, i.e. line 3 should be changed to --the communication channels--.

Claim 11, lines 3, 6, and 7 state "the communication path group". It is not clear which "communication group" lines 3, 6, and 7 refer to. Therefore, this should be changed to --the separate communication path group-- to be consistent with the rest of the claim language.

15 Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

20 A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by applicant's admitted prior art (AAPA).

Regarding claim 12, AAPA discloses "a system for managing an intermediate
5 interface of a telecommunication network, the method comprising:

a local exchange and an access network for establishing and maintaining
subscriber connections of the network (figure 1, elements AN and LE; specification,
page 3, lines 3-6);

10 a plurality of links, each link including a plurality of transmission channels for
exchanging user information of the subscriber connections (figure 1, elements LNK;
figure 2 where each LNK has a plurality of channels 0-31) and for exchanging
communication information for controlling the subscriber connections (specification,
page 7, lines 21-27 where the protection protocol information can be considered
controlling information);

15 the plurality of transmission channels as communication channels for exchanging
the communication information, based on a pre-established configuration of the
intermediate interface (figure 1 and specification, page 7, lines 21-27 where it is
inherent that the interface will have configuration, such as a configuration defined by a
protocol), and allocating at least one of the communication channels to a first protection
20 group (figure 2, element PP1 where PG1 is the first protection group and PP1 is a first
protection path);

a plurality of communication paths for exchanging the communication information in [an] operational state of the intermediate interface, the plurality of communication paths combined in communication groups (figure 2, elements LC1, LCA, LCB, LCC all represent communication path groups; specification, page 7A, lines 1-2 describe that the relationships described are for those in an operation state), wherein one or more of the communication paths and each of the communication groups are allocated to the communication channels (figure 2, where each communication group (LC1, LCA, etc.) are part of a communication channel such as TP1, TSA, TP2, etc.),

and a separate communication path group allocated to the first protection group combined with the communication paths (figure 2, element LC1)."

Although claim 5 is a method claim, certain limitations of claim 5 are identical to the functions carried out by the components of the system of claim 12. Therefore, the corresponding limitations of claim 5 similar to those in claim 12 are rejected for the same reasons as those in claim 12.

Regarding claim 9, AAPA discloses the method of claim 5. AAPA further discloses "if the at least one of the communication channels has been allocated to the first protection group, setting up [a] primary protection path in a first communication channel (figure 2, element PP1 is a primary protection path that is part of the communication group; see specification, page 7, lines 21-27) that provides an operational protocol for the primary communication path between the local exchange

and the access network (specification, page 4, lines 24-32 where the protection group contains the communication group and thusly provides an operational protocol for the primary path)."

5

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

10

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15

Claims 6-8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Khakzar (U.S. Patent 5,781,623).

20

Regarding claim 6, AAPA discloses "the method of claim 5 wherein the exchanging of the communication information further comprises: setting up a primary communication path in at least one of the communication channels of the first protection group (figure 2, element PP1 where PP1 is also a primary communication path defined by applicant in the specification, page 9, line 8); allocating the separate communication path group of the first protection group to the communication channel containing the primary communication path (figure 2, element LC1 is the separate communication group allocated to the first protection group PG1 and to channel TP1)..."

25

However, AAPA lacks what Khakzar discloses, "releasing the communication paths of the first protection group for interchanging the communication information if

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allocating the separate communication path group to the communication channel containing the primary communication path has been done successfully (col. 10, lines 22-28 where the allocation of the communication group must have been successful because a group that has not been allocated successfully cannot be released, therefore
5 the communication group must have been allocated successfully)."

It would have been obvious to one with ordinary skill in the art at the time of invention to include the releasing of the communication group for the purpose of releasing users from connection once they are finished. The motivation for releasing finished connections is to allow the resources to be freed so that more users can use
10 the system (Khakzar, col. 2, lines 65-col. 4, lines 1-6).

Regarding claim 7, AAPA and Khakzar disclose the method of claim 6. However, Khakzar lacks what AAPA further discloses, "exchanging protection switching operation messages via the primary communication path (specification, page 7, lines 16-27 where
15 the messages used for protection switching are sent across paths PP1, PP2, etc. where PP1 is the primary communication path)." It would have been obvious to one with ordinary skill in the art to include the protection switching messages transmitted over the primary communication path for the same reasons and motivation as in claim 6.

20 Regarding claim 8, AAPA and Khakzar disclose the method of claim 7. However, Khakzar lacks what AAPA further discloses, "allocating the communication path groups to the communication channels (figure 2, where each communication group (LC1, LCA,

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etc.) are part of a communication channel such as TP1, TSA, TP2 which includes the separate communication group to the channel in the first protection group)." It would have been obvious to one with ordinary skill in the art to include the allocating of the communication path groups for the same reasons and motivation as in claim 7.

5

Regarding claim 10, AAPA and Khakzar disclose the method of claim 7.

However, Khakzar lacks what AAPA further discloses, "exchanging the protection switching protection messages via a protection protocol (specification, page 7, lines 16-27), wherein the primary communication path comprises a protection path in the at least one of the communication channel[s] of the first protection group for exchanging the protection protocol related to the allocation of the communication path groups to the communication channels (figure 2, element PP1; specification, page 7, lines 21-27)." It would have been obvious to one with ordinary skill in the art to include the exchanging of the switching protection messages for the same reasons and motivation as in claim 7.

15

Regarding claim 11, AAPA and Khakzar disclose the method of claim 7.

However, Khakzar lacks what AAPA further discloses, "allocating the [separate] communication path group to a communication channel not belonging to the first protection group based on the protection switching operation messages exchanged via the first protection group (figure 2, element LCA can be the newly allocated separate communication group now in the second protection group PG2 and channel TSA)..."

20

However, AAPA lacks what Khakzar further discloses, "releasing the communication paths of the [separate] communication path group for exchanging communication information, if allocating the [separate] communication path group to a communication channel not belonging to the first protection group has been done successfully (col. 10, lines 22-28 where the allocation of the communication group must have been successful because a group that has not been allocated successfully cannot be released, therefore the communication group must have been allocated successfully)."

It would have been obvious to one with ordinary skill in the art to include the releasing the communication paths of the separate group for a new allocation for the same reasons and motivation as in claim 7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

- 5 For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joshua Kading
Examiner
Art Unit 2661

10 September 24, 2004



KENNETH VANDERPUYE
PRIMARY EXAMINER